

*What Every Member of the
Trade Community Should Know About:*

Classification and Quota Status of Raw Cotton under the HTSUS



AN INFORMED COMPLIANCE PUBLICATION
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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

Regulations and Rulings (RR) of the Office of International Trade has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division of Regulations and Rulings is entitled “Classification and Quota Status of Raw Cotton under the HTSUS.” It provides guidance regarding the classification of these items. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Executive Director, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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INTRODUCTION

Because of the complexity of tariff classifications for raw cotton, further complicated by the several different types of tariff rate quotas that might apply in any given instance, we have developed the following to help importers sort out the various quotas and classifications:

- A **general overview** of the quotas, and
- A tabular **questionnaire** to assist in determining which quotas and tariff classifications apply to any particular situation.

GENERAL OVERVIEW

THE FOLLOWING GENERAL INFORMATION IS BASED ON THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ANNOTATED (HTSUSA). SEE ATTACHED QUESTIONNAIRE AND THE HTSUSA FOR DETAILS.

- Under **NAFTA**, there are no longer textile quota restrictions for Mexico.
- Under the **Uruguay Round Agreements Act**, Section 22, absolute quotas were replaced by tariff-rate quotas (TRQ's) on January 1, 1995. TRQ's are a two-tier tariff system under which a specified "in-quota" quantity of an article enters at lower in-quota tariff rates, and "over-quota" quantities enter at substantially higher over-quota rates. The in-quota quantity excludes imports from Mexico and from countries that are not members of the World Trade Organization (WTO), or that are not specifically listed in the quota. The in-quota TRQ quantities for cotton are listed under Additional U.S. Notes 5, 6, 7, and 8 of HTSUSA chapter 52.
- Under the **Special Cotton Import Quota**, a special quota on UPLAND cotton is triggered when the price conditions set forth in section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended, are met, and the United States Department of Agriculture (USDA) issues an announcement which specifies a quantity that may be entered under HTSUSA 9903.52.01 - 9903.52.26 during a 180-day period following the effective date of such determination and announcement. Announcements may be made on a weekly basis. Imports must be accompanied by: (1) an original certificate from a foreign government agency official of the country of origin attesting that the cotton is of a variety of *Gossypium Hirsutum* (also known as Upland Cotton); (2) an importer certification that the cotton was purchased not later than 90 days after the quota was established; and (3) be entered under the terms and conditions in US Note 6(a) of Subchapter III of Chapter 99 of the HTSUSA. See paragraph below on General Note 15 of the HTSUSA.

- Under the **Special Limited Global Import Quota**, a special quota on UPLAND cotton is triggered when the price conditions set forth in section 103B(n) of the Agricultural Act of 1949, as amended, are met, and USDA issues an announcement which specifies that quantity that may be entered under HTSUSA 9903.52.00 during a 90-day period following the effective date of such determination and announcement. Imports must be accompanied by: (1) an original certificate from a foreign government agency official of the country of origin attesting that the cotton is of a variety of *Gossypium Hirsutum* (also known as Upland Cotton); (2) an importer certification that the cotton was purchased not later than 90 days after the quota was established; and (3) be entered under the terms and conditions in US Note 6(b) of Subchapter III of Chapter 99 of the HTSUSA. See last paragraph below on General Note 15 of the HTSUSA.
- **General Note 15 of the HTSUSA** states that whenever any agricultural product of chapters 2 through 52, inclusive, is (1) subject to a TRQ, and (2) subject to the provisions of subchapter IV of Chapter 99 HTSUSA, entries of such products shall not be counted against the quantities specified as the in-quota quantity. General Note 15(e) specifically lists as an exclusion "cotton entered under the provisions of US Note 6 to Subchapter III of Chapter 99 and subheadings 9903.52.00 through 9903.52.26 inclusive". Such imports count against the special quota quantity of HTSUSA 9903.52.00 through 9903.52.26 that are in the USDA announcement(s). Imports are dutiable at the tariff rates under 5201.00.12, 5201.00.22, 5201.00.55 depending on staple length.
- Under the **Special Rates of Duty** column of the HTSUSA, some classifications have reduced or free rates of duty. Where Free Trade Agreements are indicated for Australia (AU), Jordan (JO), Morocco (MA) and Singapore (SG), see indicated HTSUSA chapter 99 classifications. Where special tariff treatment is allowed by virtue of certain programs such as the Caribbean Basin Economic Recovery Act (CBERA, indicated by E), Andean Trade Preference Act (J), NAFTA (CA or MX), or Israel Free Trade Area (IL), see relevant HTSUSA general note. Some reduced rates are also shown for Chile (CL).

QUESTIONNAIRE: HOW TO ENTER RAW COTTON (NOT CARDED OR COMBED, NOT WASTE)

(This questionnaire is based on the HTSUSA as of January 2008. Always refer to the current version of the HTSUSA to ensure the accuracy of the information. In addition, the symbols for the programs under which special tariff treatment may be provided, as used below, are to be found in General Note 6(c) of the tariff.)

| QUESTIONS | IF ANSWER IS YES | IF ANSWER IS NO |
|---|--|--|
| 1. Is the cotton harsh or rough with a staple length under 19.05 mm (3/4 inch)? | Enter under 5201.00.05 (Duty free). | Go to question 2. |
| 2. Is the cotton upland cotton and is a USDA Limited Global Upland Cotton Quota in effect? a) Is it claimed by importer, certified, and within the 90 day time limit detailed in chapter 99 subchapter III? b) Is quota open? | Go to question 2(a). a) Go to question 2(b). b) Enter under 9903.52.00 paired with 5201.00.12 or 5201.00.22 or 5201.00.55 (in-quota duty rate). | Go to question 3. a) Go to question 3. b) Go to question 3. |
| 3. Is the cotton upland cotton and is a USDA Special "Weekly" Upland Cotton Quota in effect? a) Is it claimed by importer, certified, and within the 90-day & 180-day time limits detailed in chapter 99 subchapter III? b) Is quota identified by the announcement number (and chosen by the importer) open? | Go to question 3(a). a) Go to question 3(b). b) Enter under 9903.52.01-9903.52.26 paired with 5201.00.12 or 5201.00.22 or 5201.00.55 (in-quota duty rate). | Go to question 4. a) Go to question 4. b) Go to question 3(c). |

| QUESTIONS | IF ANSWER IS YES | IF ANSWER IS NO |
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| c) Is another "weekly" quota under a different announcement number still open and does importer wish to enter under it? | c) Re-apply for entry under another "weekly" quota that is still open and enter under 9903.52.01 -9903.52.26 paired with 5201.00.12 or 5201.00.22 or 5201.00.55 (in-quota duty rate). | c) Go to question 4. |
| 4. Is the cotton of staple length under 28.575 mm (1-1/8 inch), as detailed in Chapter 52 Additional US Note 5? | Go to question 4(a). | Go to question 5. |
| a) Does it originate in a country listed in Note 5? | a) Go to question 4(b). | a) Go to question 4(e). |
| b) Does country have a share of the quota quantity and is that country's allocation still open? | b) Enter under 5201.00.14 (duty free). | b) Go to question 4(c). |
| c) Does it originate in a listed country that has a share of the quota quantity and is the aggregate quota quantity excess quota (the total quota amount minus all the country allocations) still open? | c) Enter under 5201.00.14 (duty free). | c) Go to question 4(d). |
| d) Does it originate in a country not listed in this note and is it a WTO country and is the total quota quantity still open? | d) Enter under 5201.00.14 (duty free). | d) Enter under 9904.52.01 - 9904.52.09 depending on value, paired with 5201.00.18 (over-quota duty rate plus additional duty). |
| e) Does it originate in Mexico? | e) Enter under 5201.00.18 (duty-free). | e) Go to question 4(f). |
| f) Does it originate in Chile or a beneficiary country under DR/ CAFTA? | f) Enter 5201.00.18 using rate shown in "Special" column. | f) Go to question 4(g). |
| g) Does it originate in Australia, Bahrain, Jordan, Morocco, or Singapore? | g) Enter 5201.00.18 paired with the Ch.99 classifications found in "Special" column. | g) Enter under 5201.00.18 using the rate of duty found in the "General" column. |

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| <p>5. Is the cotton harsh or rough, with a staple length 28.575 mm (1-1/8 inch) or more but less than 34.925 mm (1-3/8 inch) and white in color (except perished staple, grabbots, and cotton pickings)?</p> <p>a) Is it as detailed in Chapter 52 Additional US Note 6?</p> <p>b) Does it originate in Bahrain, Canada, Chile, Israel, Jordan, Morocco, Singapore, or a beneficiary country under the Andean Trade Preference Act, DR/ CAFTA, or CBERA?</p> <p>c) Does it originate in a WTO country and is quota still open?</p> <p>d) Does it originate in Mexico?</p> <p>e) Does it originate in Chile or a beneficiary country under DR/ CAFTA?</p> <p>f) Does it originate in Australia, Bahrain, Jordan, Morocco, or Singapore?</p> | <p>Go to question 5(a).</p> <p>a) Go to question 5(b).</p> <p>b) Enter under 5201.00.24 (duty-free).</p> <p>c) Enter under 5201.00.24 (in-quota duty rate).</p> <p>d) Enter under 5201.00.28 (duty-free).</p> <p>e) Enter under 5201.00.28 using rate shown in "Special" column.</p> <p>f) Enter under 5201.00.28 paired with the Ch.99 classifications found in "Special" column.</p> | <p>Go to question 6.</p> <p>a) Go to question 5(d).</p> <p>b) Go to question 5(c).</p> <p>c) Enter under 9904.52.10 - 9904.52.16 depending on value, paired with 5201.00.28 (over-quota duty rate plus additional duty).</p> <p>d) Go to question 5(e).</p> <p>e) Go to question 5(f).</p> <p>f) Enter under 5201.00.28 using the rate of duty found in the "General" column.</p> |
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| <p>6. Is the cotton of staple length 28.575 mm (1-1/8 inch) or more but less than 34.925 mm (1-3/8 inch)?</p> <p>a) Is it as detailed in Chapter 52 Additional US Note 7?</p> <p>b) Does it originate in Bahrain, Canada, Chile, Israel, Jordan, Morocco, Singapore, or a beneficiary country under the Andean Trade Preference Act, DR/ CAFTA, or CBERA?</p> <p>c) Does it originate in a WTO country and is quota still open?</p> <p>d) Does it originate in Mexico?</p> <p>e) Does it originate in Chile or a beneficiary country under DR/ CAFTA?</p> <p>f) Does it originate in Australia, Bahrain, Jordan, Morocco, or Singapore?</p> | <p>Go to question 6(a).</p> <p>a) Go to question 6(b).</p> <p>b) Enter under 5201.00.34 (duty-free).</p> <p>c) Enter under 5201.00.34 (in-quota duty rate).</p> <p>d) Enter under 5201.00.38 (duty-free).</p> <p>e) Enter under 5201.00.38 using rate shown in "Special" column.</p> <p>f) Enter under 5201.00.38 paired with the Ch.99 classifications found in "Special" column.</p> | <p>Go to question 7.</p> <p>a) Go to question 6(d).</p> <p>b) Go to question 6(c).</p> <p>c) Enter under 9904.52.17 - 9904.52.23 depending on value, paired with 5201.00.38 (over-quota duty rate plus additional duty).</p> <p>d) Go to question 6(e).</p> <p>e) Go to question 6(f).</p> <p>f) Enter under 5201.00.38 using the rate of duty found in the "General" column.</p> |
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| <p>7. If you have arrived at this question, the cotton is of staple length 34.925 mm (1-3/8 inch) or more.</p> <p>a) Is it as detailed in Chapter 52 Additional US Note 8?</p> <p>b) Does it originate in Bahrain, Canada, Chile, Israel, Jordan, Morocco, Singapore, or a beneficiary country under the Andean Trade Preference Act, DR/ CAFTA, or CBERA?</p> <p>c) Does it originate in a WTO country and is quota still open?</p> <p>d) Does it originate in Mexico?</p> <p>e) Does it originate in Chile or a beneficiary country under DR/ CAFTA?</p> <p>f) Does it originate in Australia, Bahrain, Jordan, Morocco, or Singapore?</p> | <p>a) Go to question 7(b).</p> <p>b) Enter under 5201.00.60 (duty-free).</p> <p>c) Enter under 5201.00.60 (in-quota duty rate).</p> <p>d) Enter under 5201.00.80 (duty-free).</p> <p>e) Enter under 5201.00.80 using rate shown in "Special" column.</p> <p>f) Enter under 5201.00.80 paired with the Ch.99 classifications found in "Special" column.</p> | <p>a) Go to question 7(d).</p> <p>b) Go to question 7(c).</p> <p>c) Enter under 9904.52.24 - 9904.52.34 depending on value, paired with 5201.00.80 (over-quota duty rate plus additional duty).</p> <p>d) Go to question 7(e).</p> <p>e) Go to question 7(f).</p> <p>f) Enter under 5201.00.80 using the rate of duty found in the "General" column.</p> |
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ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of Customs and Border Protection Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound edition of Title 19, Code of Federal Regulations is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

Customs Bulletin

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The current edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The current edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



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